THE HON'BLE SRI JUSTICE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.12091 of 2004

ORAL ORDER: (per Hon'ble Sri Justice B.Prakash Rao)

Date: 8-6-2006

Between:

1. The State of A.P. rep. by its
Secretary to Govt.
Agriculture & Cooperation and another … Petitioners

And

Sri A.Dharma Rao .. Petitioners

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ORAL ORDER: (per Hon'ble Sri Justice B.Prakash Rao)

Heard the learned Government Pleader for Services I on behalf of the petitioner and Sri K.Vijaya Kumar, learned counsel appearing for the contesting respondent and at their request the main writ petition itself is taken up for disposal.

Petitioners – Government, who is employer seek a writ of certiorari assailing the orders of the A.P. Administrative Tribunal dated 2.9.2003 in O.A.4580 of 2002.

The brief facts necessary for disposal of the writ petition are that the respondent – employee was proceeded against with a disciplinary enquiry, inter alia on the ground that he married second time, on a complaint received from his first wife. Subsequently, after holding an enquiry, ultimately an order of punishment of 80% cut in pension was passed. The said order was challenged by the respondent – employee in the O.A.458 which after was ultimately allowed directing the petitioner herein to take further action afresh depending on the exigency. Hence, the present writ petition.

This court while admitting the writ petition, suspended the order of the A.P. Administrative Tribunal by order dated 16.7.2004.

Learned Government Pleader for Services-I submits that

having regard to the fact that respondent was married second time, the Tribunal ought not to have disturbed the punishment, which has been ordered after holding a regular departmental enquiry. This contention is repelled by the learned counsel for the respondent.

After considering the submissions on both sides and also the material on record and having regard to the nature of allegations, we are of the opinion that that the very punishment on the face of it does not appear to be sustainable and as rightly observed by the Tribunal, the same is liable to be set aside and is rightly set aside. However, the learned Government Pleader of Services-I submits that though there was a discretion given to the petitioner to consider the matter afresh depending on the outcome of the civil suits and to take suitable action, no further steps have been taken in view of the fact that the order of the Tribunal was suspended.

There is no serious dispute on behalf of the respondent that the he had married second time. In view of the same and especially in view of the interim direction we are in agreement with the finding given by the Tribunal. The order imposing punishment of 50% cut in pension cannot be sustained on any ground and has no nexus even to the nature of allegations. It is also pointed out during the course arguments that the petition filed by the first wife of the respondent on the ground of bigamy was already dismissed and it is only the maintenance case, which is pending. In view of the same it cannot be said that the outcome of both the proceedings would have any effect on the service of the respondent herein. We do not find any merit in the writ petition.

The writ petition is accordingly dismissed, however, with liberty to the petitioner to pass fresh orders on merits, in accordance with law, after giving notice to both sides and following due process of law. No costs.

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B.PRAKASH RAO,J

Date: 08-06-2006

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RAMESH RANGANATHAN,J